



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/967,036	09/28/2001	Clyde S. Clark	42390P12321	4845

7590 06/22/2005

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER

MASON, DONNA K

ART UNIT PAPER NUMBER

2111

DATE MAILED: 06/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/967,036

Applicant(s)

CLARK ET AL.

Examiner

Donna K. Mason

Art Unit

2111

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-49 is/are pending in the application.
- 4a) Of the above claim(s) 42-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-41 and 45-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 31-41 and 45-49, drawn to a system, method, and controller, the system including an active host a standby host, and a controller, and where the controller includes a fault detection module, a bus arbiter, and a host control interface, classified in class 714, subclass 42.
 - II. Claims 42-44, drawn to a method including requesting a map of bus devices from an active host, classified in class 710, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as in a system, method, and controller, where the controller includes a fault detection module, a bus arbiter, and a host control interface. See MPEP § 806.05(d).
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 2111

4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Aslam Jaffery (Reg. No. 51,841) and Charles Gray on May 16, 2005, a provisional election was made without traverse to prosecute the invention of Group I, claims 31-41 and 45-49. Affirmation of this election must be made by applicant in replying to this Office action. Claims 42-44 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Response to Arguments

7. Applicant's arguments filed March 24, 2005 with respect to new claims 31-41 and 45-49 in view of Hammersley have been fully considered but they are not persuasive.

Applicant argues that Hammersley does not disclose a fault detection module or coordination of control of a plurality of buses between an active host and a standby

Art Unit: 2111

host, as recited in claim 31. Contrary to Applicant's assertions, Hammersley does disclose these features.

Therefore, the Examiner cannot allow claim 31-41 and 45-49.

8. Applicant's arguments filed March 24, 2005 with respect to the rejection of claims 31-41 and 45-49 in view of Lanus and Tanenbaum have been fully considered but they are not persuasive.

Applicant argues that neither Lanus nor Tanenbaum teach or suggest the limitations of newly added claims 31-41 and 45-49. However, Lanus teaches the claimed features of new claims 31-41 and 45-49.

Therefore, the Examiner cannot allow claims 31-41 and 45-49.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 31-41 and 45-49 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,618,783 to Hammersley.

With regard to claims 31 and 45, Hammersley discloses a system including: an active host (Fig. 2, including items 110(a) and 122(a)); and a standby host (Fig. 2, including items 110(b) and 122) coupled with the active host via a plurality of buses (Fig. 2, items 142 and 142(a)), where the active host and the standby host each include a controller. The controller includes a fault detection module coupled with fault detection hardware, the fault detection module to receive a notification from the fault detection hardware indicating a fault (column 4, lines 64-67 to column 5, lines 1-3; column 5, lines 51-54; and column 6, lines 25-31), a bus arbiter control module to provide bus arbitration on the plurality of buses, and to coordinate control of the plurality of buses between the active host and the standby host (column 6, lines 38-40), and a host control (HC) interface unit to generate control signals transmitted during startup and fail-over (column 6, lines 56-67 to column 7, lines 1-56).

With regard to claims 32-36 and 46-49, see generally: Fig. 2, items 112(a), 112(b), 116(a) and 116(b); column 4, lines 4-17 and lines 46-63; column 4, lines 4-30; and (column 6, lines 56-67 to column 7, lines 1-56).

With regard to claim 37, Hammersley discloses a method including: receiving a notification from fault hardware indicating a fault (column 4, lines 64-67 to column 5, lines 1-3; column 5, lines 51-54; and column 6, lines 25-31); providing bus arbitration on a plurality of buses (column 6, lines 38-40); and generating control signals to be transmitted during startup and fail-over (column 6, lines 56-67 to column 7, lines 1-56).

With regard to claim 38, Hammersley discloses: accessing programs running on the active host and the standby host (Fig. 2, items 112(a), 112(b), 116(a) and 116(b);

Art Unit: 2111

column 4, lines 46-63); and providing clock signals to the plurality of buses (column 4, lines 4-17).

With regard to claims 39-41, Hammersley discloses: where the plurality of buses includes a plurality of COMPACTPCI buses (column 4, lines 4-30); and where the method further includes the steps of receiving the control signals to be used during startup and fail-over; and responding to the control signals received during startup and fail-over (column 6, lines 56-67 to column 7, lines 1-56).

Therefore, Hammersley discloses the invention as specified in claims 31-41 and 45-49.

11. Claim 31-41 and 45-49 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,112,271 to Lanus, et al. ("Lanus").

With regard to claims 31 and 45, Lanus discloses a system including: an active host (Fig. 1, items 150 and 160); and a standby host (Fig. 1, items 170 and 180) coupled with the active host via a plurality of buses (Fig. 1, items 110, 120, 140, and 130), where the active host and the standby host each include a controller. The controller includes a fault detection module coupled with fault detection hardware, the fault detection module to receive a notification from the fault detection hardware indicating a fault (column 4, lines 40-60 and column 5, lines 24-35; Fig. 1, items 166 and 186 and the accompanying text), a bus arbiter control module to provide bus arbitration on the plurality of buses, and to coordinate control of the plurality of buses between the active host and the standby host (column 6, lines 54-67 to column 7, lines 1-15; Fig. 1,

Art Unit: 2111

items 154, 164, 174, 184; and Fig. 8 items 810 and 820), and a host control (HC) interface unit to generate control signals transmitted during startup and fail-over (column 7, lines 17-43).

With regard to claim 37, Lanus discloses a method including: receiving a notification indicating a fault from fault detection hardware (column 4, lines 40-60; and column 5, lines 24-35; Fig. 1, items 166 and 186 and the accompanying text); providing bus arbitration on a plurality of buses (Fig. 8; coordinating control of the plurality of buses between an active host and a standby host; and generating control signals to be transmitted during startup and fail-over.

With regard to dependent claims 32-36, 38-41, and 46-49, see generally: column 2, lines 9-23; column 6, lines 54-67; column 7, lines 17-67 to column 8, lines 1-19).

Therefore, Lanus discloses the invention as specified in claims 31-41 and 45-49.

Conclusion

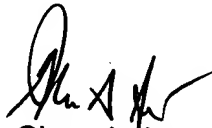
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donna K. Mason whose telephone number is (571) 272-3629. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark H. Rinehart can be reached on (571) 272-3632. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2111

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DKM



Glenn A. Auve
Primary Patent Examiner
Technology Center 2100